

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES BROWN #485623,

Plaintiff(s),

CASE NUMBER: 07-11804

HONORABLE VICTORIA A. ROBERTS

v.

PATRICIA CARUSO *et al.*,

Defendant(s).

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**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

On January 4, 2008, the Court denied Plaintiff's request for a restraining order against the Michigan Department of Corrections ("MDOC") because Plaintiff did not indicate he made a written request for special handling of legal mail in compliance with MDOC policy directive 05.03.118. Plaintiff presents evidence that he made such a request and asks the Court to reconsider its decision. (Doc. #48).

Eastern District of Michigan Local Rule 7.1(g)(3) provides for reconsideration if the movant demonstrates a palpable defect by which the court and the parties have been misled, and further demonstrates that correcting the defect will result in a different disposition of the case. "A 'palpable defect' is a defect which is obvious, clear, unmistakable, manifest, or plain." *Fleck v. Titan Tire Corp.*, 177 F.Supp.2d 605, 624 (E.D. Mich. 2001). "[T]he court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication." L.R. 7.1(g)(3).

Restraining orders preserve the *status quo* and prevent irreparable harm until the Court can hold a hearing on a preliminary injunction. See *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County*, 415 U.S. 423, 439 (1974). Plaintiff is not requesting a preliminary injunction nor is he seeking a restraining order on a claim pled in the Complaint; he simply wants the prison staff to stop opening his legal mail outside his presence.

The Court finds prison officials are satisfactorily resolving Plaintiff's request. The prison Warden responded to Plaintiff's grievance on June 6, 2007: "Your relief requested has been partially fulfilled in the way of staff education and assurance that this issue will not arise again." Since Plaintiff received this assurance, his only complaint was that "Legal mail from Immigration Equality" and stamped "Legal Services Court Case #2:07-cv-11804" was opened outside his presence. However, the Administrative Assistant stated: (1) mail from "Immigration Equality" is not protected under MDOC policy directive 05.03.118; and (2) typing or printing "Legal Services" and a case number does not qualify an item to be opened in a prisoner's presence.

The Court **DENIES** Plaintiff's motion for reconsideration, but reminds Defendants they must follow MDOC policy directives.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 29, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on February 29, 2008.

s/Carol A. Pinegar
Deputy Clerk